IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

SATURDAY, THE EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 7271 of 2005

Between:

Mydukuru Subbaiah S/o. Late Nagulaiah
R/o. Door No. 7/1116, Mruthyunjyakunta, Simhapuri Colony, Cuddapah Mandal &District.

..... PETITIONER

AND

1 The District Collector, Cuddapah, Cuddapah District.
2 The Revenue Divisional Officer, Cuddapah, Cuddapah District.
3 The Mandal Revenue officer, Cuddapah Mandal, Cuddapah District.
4 The Cuddapah District Revenue Employees Housing Society Limited, Near Collectorate Office, Cuddapah, Cuddapah District.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE B.SESHA SAYANA REDDY

WRIT PETITION NO.7271 OF 2005

O R D E R:

When the vacate stay petition came up for hearing, both the parties agreed for disposal of the main writ petition it self and thus the writ petition is taken up for hearing and is being disposed of by this Order.

The writ petitioner claims that the land in an extent of Ac.3.85 cents in Survey No.1128/3 of Mruthyunjayakunta, Chinnachowk Village, Cuddapah Mandaland District is owned and possessed by him from the year 1985. He claims that the land in his possession has been allotted to him under D.K.T.Patta No.93/1394, dated 21-05-1985. As the respondent authorities tried to dispossess the writ petitioner, he filed the present writ petition invoking the jurisdiction under Article 226 of the Constitution of India.

The respondents have filed the counter affidavit. One Sri G.Venkateshwarlu has sworn to the counter affidavit. It is stated in the counter affidavit that the land in question was originally belonged to 'Jungle Poramboke' and was entered in Prohibitory Order Book and the lands stood under the same category upto 1992 in which year, the District Collector, Cuddapah, transferred the land from Jungle Poramboke to Assessed Waste and eliminated from Prohibitory Order Book in his proceedings No. B9/7978/91 dated 30-07-1992 so as to make the land permissible for alienation in favour of the President, Revenue Services Association, Cuddapah on payment of market value. Therefore, the question of assignment of the land in question to the petitioner during the year 1985 does not arise.

I deem it appropriate to refer para 2 of the counter affidavit and it is thus:

> "Before answering the affidavit, it is pertinent to submit that the S.No. 1128/3 consists of total extent Ac.13.54 and not Ac.03.85 cents. The same is originally classified as Jungle Poramboke and was entered in (P.O.B.) Prohibitory Order Book Subsequently the land has been transferred from jungle Poramboke to Assessed Waste and eliminated from Prohibitory Order Book in District Collector, Cuddapah Proceedings Ref. B9/7978/91 dated 30-07-1992 for alienation of the same in favour of the President, Revenue Services Association, Cuddapah on payment of market value. Hence the question of assignment of the above S.No.1128/3 to an extent of Ac.3.85 to the petitioner during the year 1985 does not arise, as its total extent in S.No.1128/3 is Ac.13.54 cents and there is no further sub division in the said S.No. The land was Jungle Poramboke and was entered in Probhibitory Order Book as on the date said to have been assigned. The alienation proposals in favour of President, Revenue Services Association have also been submitted to the government vide District Collector's Ref.No.By/2929/97 dated 26-09-1998. The proposals are pending. Earlier to the said proposal this land was never assigned to any one much less to the petitioner at any point of time. The Xerox copy of the 'D' Form filed by the petitioner is not a genuine one. Hence the petition deserves no consideration. There is no proceedings issued from the then Tahsildar from this office to the petitioner. The petitioner has filed fake patta in the above writ petition for

grabbing the Government land."

Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

It is the contention of the learned counsel for the petitioner that the land in question has been assigned to the writ petitioner on 21-05-1995.

Whereas it is the case of the respondents that assigning DKT patta is a fabricated one and therefore the writ petitioner has no right over the property.

Now the question is whether the land in question is a DKT patta land or not ?

The fact remains that the writ petitioner is claiming the property under DKT patta having been granted to him on 21-05-1985. The question as to whether the DKT patta relied upon by the petitioner is a fake one or genuine one is required to be adjudicated by the revenue authorities on giving due opportunity to the petitioner.

In the circumstances stated above, I deem it appropriate to direct the respondents to conduct an enquiry with regard to genuineness of DKT patta issued in favour of the petitioner before initiating any proceedings against the writ petitioner for evicting him from the land in question.

With the above observation, the writ petition is disposed of. No costs.

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01-08-2005

Mjl/*